

1. Petitioner, a removable alien whose immigration "proceedings [are] based[,] at least in part, on his 1989 conviction for conspiracy to defraud a bank," is asserting that said conviction violated the holding of *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010). (D.E. No. 1-1 at 2-4). In support of his position, Petitioner asserts that *Padilla* is retroactively applicable on collateral review. (See *id.* at 9-14).
2. The Supreme Court recently ruled, however, that *Padilla* does not have retroactive effect. See *Chaidez v. United States*, -- U.S. ---, 133 S. Ct. 1103, 1105 (2013) ("We conclude that, under the principle set out in *Teague v. Lane*, 489 U.S. 288 (1989), *Padilla* does not have retroactive effect [regarding

cases already final on direct review]”). Here, Petitioner’s conviction was finalized in 1989--more than two decades prior to the entry of *Padilla*. Thus, any constitutional or legal claim that Petitioner might have had based on the purported retroactive effect of *Padilla* is invalid as a matter of law.

IT IS, therefore, on this 5th day of April, 2013,

ORDERED that the Clerk shall reopen this matter by making a new and separate entry on the docket reading, “CIVIL CASE REOPENED”; and it is further

ORDERED that the Petition (D. E. No. 1) is DISMISSED WITH PREJUDICE; and it is further

ORDERED that the Clerk shall serve a copy of this Memorandum Opinion and Order upon Petitioner by means of facsimile delivery;¹ and it is finally

ORDERED that the Clerk shall close the file on this matter.

s/ Esther Salas
Esther Salas,
United States District Judge

¹ The notice of appearance filed by Petitioner’s counsel provided the Clerk with counsel’s facsimile number but not with electronic messaging address. (See D.E. No. 5). Similarly, Petitioner’s counsel’s notice of change of address provided the Clerk with counsel’s facsimile but not with electronic address. (See D.E. No. 7).